

# House File 195 - Introduced

HOUSE FILE 195

BY LOHSE and JONES

## A BILL FOR

1 An Act relating to placement of custody of a newborn infant  
2 under the newborn safe haven Act.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.2, Code 2023, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 40A. "*Newborn infant*" means the same as  
4 defined in section 233.1.

5 Sec. 2. Section 232.78, Code 2023, is amended by adding the  
6 following new subsection:

7 NEW SUBSECTION. 9. *a.* Notwithstanding any provision to  
8 the contrary including priority in placement of a child under  
9 subsection 8, if the department requests an ex parte order  
10 from the juvenile court under this section pursuant to section  
11 233.2 for transfer of custody of a newborn infant, one of the  
12 following shall be applicable:

13 (1) If physical custody of the newborn infant was not  
14 initially relinquished under section 233.2 to an adoption  
15 service provider, the department shall request that custody be  
16 transferred to the department.

17 (2) If physical custody of the newborn infant was initially  
18 relinquished under section 233.2 to an adoption service  
19 provider, the department shall request that custody be  
20 transferred to the adoption service provider.

21 *b.* Upon receiving the order, the department or the adoption  
22 service provider shall take custody of the newborn infant and  
23 proceed in accordance with chapter 233.

24 *c.* For the purposes of this subsection, "*adoption service*  
25 *provider*" means the same as defined in section 233.1.

26 Sec. 3. Section 232.95, Code 2023, is amended by adding the  
27 following new subsection:

28 NEW SUBSECTION. 2A. Notwithstanding any provision to the  
29 contrary including placement of custody of a child pursuant to  
30 subsection 2, if the hearing under this section is the result  
31 of a request for an ex parte order from the court pursuant to  
32 section 232.78 for a newborn infant for whom physical custody  
33 was relinquished pursuant to section 233.2, the court shall  
34 place custody of the child as provided in section 232.78,  
35 subsection 9, and proceed in accordance with chapter 233.

1     Sec. 4. Section 232.102, Code 2023, is amended by adding the  
2 following new subsection:

3     NEW SUBSECTION. 11. Notwithstanding any provision to the  
4 contrary, transfer of legal custody and placement of a newborn  
5 infant for whom physical custody was relinquished pursuant to  
6 section 233.2 shall be determined in accordance with chapter  
7 233.

8     Sec. 5. Section 232.104, Code 2023, is amended by adding the  
9 following new subsection:

10    NEW SUBSECTION. 10. Notwithstanding any provision to the  
11 contrary, legal custody and placement of a newborn infant for  
12 whom physical custody was relinquished pursuant to section  
13 233.2 shall be determined in accordance with chapter 233.

14    Sec. 6. Section 233.1, Code 2023, is amended to read as  
15 follows:

16    **233.1 Newborn safe haven Act — definitions.**

17    1. **This chapter** may be cited as the "*Newborn Safe Haven*  
18 *Act*".

19    2. For the purposes of **this chapter**, unless the context  
20 otherwise requires:

21    a. "Adoption service provider" means a state-licensed  
22 private agency which represents itself as placing children  
23 permanently or temporarily in private family homes, receiving  
24 children for placement in private family homes, and actually  
25 engaging in placement of children in private family homes for  
26 adoption.

27    b. "Certified adoption investigator" means the same as  
28 defined in section 600A.2.

29    c. "Department" means the department of health and human  
30 services.

31    ~~a.~~ d. "First responder" means an emergency medical care  
32 provider, a registered nurse staffing an authorized service  
33 program under **section 147A.12**, a physician assistant staffing  
34 an authorized service program under **section 147A.13**, a fire  
35 fighter, or a peace officer as defined in **section 801.4**.

1 ~~b.~~ e. "*Institutional health facility*" means a hospital  
2 as defined in [section 135B.1](#), including a facility providing  
3 medical or health services that is open twenty-four hours per  
4 day, seven days per week and is a hospital emergency room or a  
5 health care facility as defined in [section 135C.1](#).

6 ~~e.~~ f. "*Newborn infant*" means a child who is, or who appears  
7 to be, ninety days of age or younger.

8 Sec. 7. Section 233.2, Code 2023, is amended to read as  
9 follows:

10 **233.2 Newborn infant custody release procedures.**

11 1. *a.* A parent of a newborn infant may voluntarily release  
12 custody of the newborn infant by relinquishing physical custody  
13 of the newborn infant, without expressing an intent to again  
14 assume physical custody, at an institutional health facility  
15 or to an adoption service provider or by authorizing another  
16 person to relinquish physical custody on the parent's behalf.  
17 If physical custody of the newborn infant is not relinquished  
18 directly to an individual on duty at the institutional health  
19 facility or to an adoption service provider, the parent may  
20 take other actions to be reasonably sure that an individual on  
21 duty or the adoption service provider is aware that the newborn  
22 infant has been left at the institutional health facility or  
23 the location of the adoption service provider. The actions  
24 may include but are not limited to making telephone contact  
25 with the institutional health facility, the adoption service  
26 provider, or a 911 service.

27 *b.* In lieu of the procedure described in paragraph "*a*",  
28 a parent of a newborn infant may make telephone contact with  
29 a 911 service and relinquish physical custody of the newborn  
30 infant, without expressing an intent to again assume physical  
31 custody, to a first responder who responds to the 911 telephone  
32 call.

33 *c.* For the purposes of [this chapter](#) and for any judicial  
34 proceedings associated with the newborn infant, a rebuttable  
35 presumption arises that the person who relinquishes physical

1 custody at an institutional health facility, to an adoption  
2 service provider, or to a first responder in accordance with  
3 this section is the newborn infant's parent or has relinquished  
4 physical custody with the parent's authorization.

5 2. a. Unless the parent or other person relinquishing  
6 physical custody of a newborn infant clearly expresses an  
7 intent to return to again assume physical custody of the  
8 newborn infant, an individual on duty at the facility at which  
9 physical custody of the newborn infant was relinquished, the  
10 adoption service provider to whom physical custody of the  
11 newborn infant was relinquished, or a first responder to whom  
12 physical custody of the newborn infant was relinquished,  
13 pursuant to [subsection 1](#) shall take physical custody of the  
14 newborn infant. The individual on duty, the adoption service  
15 provider, or the first responder may request the parent or  
16 other person to provide the name of the parent or parents  
17 and information on the medical history of the newborn infant  
18 and the newborn infant's parent or parents. However, the  
19 parent or other person is not required to provide the names  
20 or medical history information to comply with [this section](#).  
21 The individual on duty, the adoption service provider, or  
22 the first responder may perform reasonable acts necessary to  
23 protect the physical health or safety of the newborn infant.  
24 The individual on duty and the institutional health facility  
25 in which the individual was on duty, the adoption service  
26 provider, and the first responder are immune from criminal or  
27 civil liability for any acts or omissions made in good faith to  
28 comply with [this section](#).

29 b. If the physical custody of a newborn infant is  
30 relinquished to a first responder or to an adoption service  
31 provider, the first responder or the adoption service provider  
32 shall transport the newborn infant to the nearest institutional  
33 health facility. The first responder or the adoption service  
34 provider shall provide any parental identification or medical  
35 history information to the institutional health facility.

1     *c.* If the physical custody of the newborn infant is  
 2 relinquished at an institutional health facility, the state  
 3 shall reimburse the institutional health facility for the  
 4 institutional health facility's actual expenses in providing  
 5 care to the newborn infant and in performing acts necessary to  
 6 protect the physical health or safety of the newborn infant.  
 7 The reimbursement shall be paid from moneys appropriated for  
 8 this purpose to the department ~~of human services~~.

9     *d.* If the name of the parent is unknown to the institutional  
 10 health facility, the individual on duty or other person  
 11 designated by the institutional health facility at which  
 12 physical custody of the newborn infant was relinquished shall  
 13 submit the certificate of birth report as required pursuant  
 14 to [section 144.14](#). If the name of the parent is disclosed  
 15 to the institutional health facility, the facility shall  
 16 submit the certificate of birth report as required pursuant to  
 17 section 144.13. The department ~~of public health~~ shall not file  
 18 the certificate of birth with the county of birth and shall  
 19 otherwise maintain the confidentiality of the birth certificate  
 20 in accordance with [section 144.43](#).

21     3. *a.* As soon as possible after the individual on duty,  
 22 the adoption service provider, or the first responder assumes  
 23 physical custody of a newborn infant released under subsection  
 24 1, and, if applicable, the individual or the adoption service  
 25 provider transports the newborn infant to the nearest  
 26 institutional health facility under subsection 2, paragraph  
 27 "b", the adoption service provider, or the first responder  
 28 shall notify the department ~~of human services and the~~. The  
 29 department shall take the actions necessary for the department  
 30 or an adoption service provider to assume the care, control,  
 31 and custody of the newborn infant.—The as follows:

32     (1) If physical custody of the newborn infant was not  
 33 initially relinquished to an adoption service provider,  
 34 the department shall immediately notify the juvenile court  
 35 and the county attorney of the department's action and the

1 circumstances surrounding the action and request an ex parte  
2 order from the juvenile court ordering, in accordance with the  
3 requirements of [section 232.78](#), [subsection 9](#), the department  
4 to take custody of the newborn infant. Upon receiving the  
5 order, the department shall take custody of the newborn  
6 infant. After the department takes custody of the newborn  
7 infant, notwithstanding any provision to the contrary relating  
8 to priority placement of the child under section 232.78, the  
9 department shall, if feasible, place the newborn infant in  
10 a prospective adoptive home. The department shall maintain  
11 a list of prospective adoptive homes that have completed  
12 placement investigations and have been preapproved by the  
13 department or a certified adoption investigator.

14 (2) If physical custody of the newborn infant was initially  
15 relinquished to an adoption service provider, the department  
16 shall immediately notify the juvenile court and the county  
17 attorney of the department's action and the circumstances  
18 surrounding the action and request an ex parte order from the  
19 juvenile court ordering, in accordance with the requirements of  
20 section 232.78, subsection 9, the adoption service provider to  
21 take custody of the newborn infant. Upon receiving the order,  
22 the adoption service provider shall take custody of the newborn  
23 infant.

24 b. Within twenty-four hours of the department or the  
25 adoption service provider taking custody of the newborn infant,  
26 the department or the adoption service provider shall notify  
27 the juvenile court and the county attorney in writing of the  
28 department's or adoption service provider's action and the  
29 circumstances surrounding the action.

30 4. a. Upon being notified in writing by the department or  
31 an adoption service provider under [subsection 3](#), the county  
32 attorney shall file a petition alleging the newborn infant to  
33 be a child in need of assistance in accordance with section  
34 232.87 and a petition for termination of parental rights with  
35 respect to the newborn infant in accordance with section

1 232.111, subsection 2, paragraph "a". A hearing on a child in  
2 need of assistance petition filed pursuant to [this subsection](#)  
3 shall be held at the earliest practicable time. A hearing on a  
4 termination of parental rights petition filed pursuant to this  
5 subsection shall be held no later than thirty days after the  
6 day the physical custody of the newborn child was relinquished  
7 in accordance with [subsection 1](#) unless the juvenile court  
8 continues the hearing beyond the thirty days for good cause  
9 shown.

10     **b.** Notice of a petition filed pursuant to [this subsection](#)  
11 shall be provided to any known parent and others in accordance  
12 with the provisions of [chapter 232](#) and shall be served upon any  
13 putative father registered with the state registrar of vital  
14 statistics pursuant to [section 144.12A](#). In addition, prior to  
15 holding a termination of parental rights hearing with respect  
16 to the newborn infant, notice by publication shall be provided  
17 as described in [section 600A.6, subsection 5](#).

18     **5.** Reasonable efforts, as defined in [section 232.102](#), that  
19 are made in regard to the newborn infant shall be limited to  
20 the efforts made in a timely manner to finalize a permanency  
21 plan for the newborn infant.

22     **6.** An individual on duty at an institutional health  
23 facility, an adoption service provider, or a first responder  
24 who assumes custody of a newborn infant upon the release of  
25 the newborn infant under [subsection 1](#) shall be provided notice  
26 of any hearing held concerning the newborn infant at the same  
27 time notice is provided to other parties to the hearing and  
28 the individual or first responder may provide testimony at the  
29 hearing.

30     **Sec. 8.** Section 233.5, subsection 2, Code 2023, is amended  
31 to read as follows:

32     **2.** A record described in [subsection 1](#) may be inspected and  
33 the contents disclosed without court order to the following:

34     **a.** The court and professional court staff, including  
35 juvenile court officers.



- 1     *b.* The newborn infant and the newborn infant's counsel.
- 2     *c.* The newborn infant's parent, guardian, custodian, and
- 3 those persons' counsel.
- 4     *d.* The newborn infant's court appointed special advocate and
- 5 guardian ad litem.
- 6     *e.* The county attorney and the county attorney's assistants.
- 7     *f.* An agency, adoption service provider, association,
- 8 facility, or institution which has custody of the newborn
- 9 infant, or is legally responsible for the care, treatment, or
- 10 supervision of the newborn infant.
- 11    *g.* The newborn infant's foster parent or an individual
- 12 providing a prospective adoptive home or preadoptive care to
- 13 the newborn infant.

14     Sec. 9. Section 233.6, Code 2023, is amended to read as  
15 follows:

16     **233.6 Educational and public information.**

17     ~~The department of human services, in consultation with the~~  
18 ~~Iowa department of public health~~ and the department of justice,  
19 shall develop and distribute the following:

- 20     1. An information card or other publication for  
21 distribution by an institutional health facility, adoption  
22 service provider, or a first responder to a parent who releases  
23 custody of a newborn infant in accordance with [this chapter](#).  
24 The publication shall inform the parent of a parent's rights  
25 under [section 233.4](#), explain the request for medical history  
26 information under [section 233.2, subsection 2](#), and provide  
27 other information deemed pertinent by the departments.
- 28     2. Educational materials, public information announcements,  
29 and other resources to develop awareness of the availability  
30 of the newborn safe haven Act and the involvement of adoption  
31 service providers among adolescents, young parents, and others  
32 who might avail themselves of [this chapter](#).
- 33     3. Signage that may be used to identify the institutional  
34 health facilities and adoption service providers at which  
35 physical custody of a newborn infant may be relinquished in

1 accordance with [this chapter](#).

2 EXPLANATION

3 The inclusion of this explanation does not constitute agreement with  
4 the explanation's substance by the members of the general assembly.

5 This bill relates to the placement of custody of a child  
6 under Code chapter 233, the newborn safe haven Act.

7 The bill includes definitions used in the bill for the  
8 purpose of Code chapter 233 including "adoption service  
9 provider" which means a state-licensed private agency  
10 which represents itself as placing children permanently or  
11 temporarily in private family homes, receiving children for  
12 placement in private family homes, and actually engaging in  
13 placement of children in private family homes for adoption.

14 The bill amends the provisions relating to newborn infant  
15 custody release procedures under Code chapter 233 to provide  
16 for the relinquishing of physical custody of a newborn  
17 infant, in addition to an institutional health facility or a  
18 first responder, to an adoption service provider, and as a  
19 result further provides that the adoption service provider  
20 may request from the parent or other person relinquishing  
21 the child to provide the name of the parent or parents and  
22 information on the medical history of the newborn infant  
23 and the newborn infant's parent or parents; may perform  
24 reasonable acts necessary to protect the physical health or  
25 safety of the newborn infant; is immune from criminal or civil  
26 liability for any acts or omissions made in good faith to  
27 comply with the bill; and shall transport the newborn infant  
28 to the nearest institutional health facility and provide any  
29 parental identification or medical history information to the  
30 institutional health facility.

31 As soon as possible after an assuming physical custody of and  
32 transporting the newborn infant to the nearest institutional  
33 health facility, if applicable, the entity that initially  
34 took physical custody of the child, including an adoption  
35 service provider under the bill, shall notify the department

1 of health and human services (HHS). Current Code chapter 233  
2 directs HHS, once notified, to follow a process for HHS to take  
3 care, custody, and control of the newborn infant and then, if  
4 appropriate, proceed through child in need of assistance and  
5 termination of parental rights proceedings. The bill provides  
6 instead that if an adoption service provider initially assumes  
7 physical care of a newborn infant, the process would allow the  
8 adoption service provider, rather than HHS, to assume care,  
9 custody, and control of the newborn infant and proceed through  
10 the remainder of the process. Under the bill, if physical  
11 custody of the newborn infant was not initially relinquished  
12 to an adoption service provider, HHS would follow the existing  
13 process and take custody of the newborn infant. After taking  
14 custody of the newborn infant, under current law, HHS could  
15 then transfer custody of the child, in order of priority, to  
16 an adult relative of the child, a fictive kin, a suitable  
17 placement identified by the child's relative, or foster care.  
18 The bill provides instead that if HHS takes custody of the  
19 newborn infant, notwithstanding any provision to the contrary  
20 relating to placement of the child, HHS shall, if feasible,  
21 place the newborn infant in a prospective adoptive home. The  
22 department shall maintain a list of prospective adoptive  
23 homes that have completed placement investigations and have  
24 been preapproved by HHS or a certified adoption investigator.  
25 Alternatively, under the bill, if physical custody of the  
26 newborn infant was initially relinquished to an adoption  
27 service provider, HHS shall request an ex parte order from the  
28 juvenile court ordering, in accordance with the requirements  
29 of new Code section 232.78(9), the adoption service provider,  
30 rather than HHS, take custody of the newborn infant. Upon  
31 receiving the order, the adoption service provider takes  
32 custody of the newborn infant. The bill provides that  
33 depending on whether custody of the child is placed with HHS  
34 or the adoption service provider, either HHS or the adoption  
35 service provider manages the remainder of the existing process,

1 including the child in need of assistance and termination of  
2 parental rights proceedings.

3     The bill specifically includes adoption service providers  
4 and prospective adoptive homes in those entities who may  
5 have access to the record developed relating to release  
6 of the newborn infant. The bill also provides that the  
7 information, materials, announcements, and other resources  
8 developed regarding the newborn safe haven Act include adoption  
9 service providers as distributors of the resources and include  
10 information about the involvement of adoption service providers  
11 under the newborn safe haven Act, and identify adoption service  
12 providers to whom a newborn infant may be relinquished.

13     The bill makes other conforming changes in the Code to  
14 include the involvement of adoption service providers under the  
15 newborn safe haven Act as provided under the bill.